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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/575,258

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EXAMINER

O BRIEN, JEFFREY D

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/575,258	<b>Applicant(s)</b> MIGLI, CARLO	
	<b>Examiner</b> Jeffrey O'Brien	<b>Art Unit</b> 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 6, 17, 20-22 and 35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-13, 18, 19, 23-30, 33, 34 and 36 is/are rejected.
- 7) ☒ Claim(s) 14-16, 31, 32 and 37-40 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 April 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 6, 17, 20, 21, 22 and 35 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10/24/2008.
2. Applicant's election without traverse of Species I: Figs. 1-6 in the reply filed on 10/24/2008 is acknowledged.

### ***Specification***

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
4. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are:
  5. Page 3, Line 5: "capable to achieve".
  6. Page 3, Line 22: "advantageously allows to definitely".
  7. Page 8, Line 14: "thus allows to define"

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8. The disclosure is objected to because of the following informalities: Page 14, Line 5: “device 57” should be replaced with “device 27”.

9. Appropriate correction is required.

### ***Drawings***

10. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters are often pointing to different elements in the figures. For instance numeral 69 points to different elements in Figs. 2, 3, and 4. Further, numeral 60 is pointing at element 59 in Fig. 6. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

11. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings are generally informal and have shading and other blemishes that make viewing and understanding the drawings difficult. It is recommended that the drawings be resubmitted without shading effects (especially prevalent in Fig. 6). This shading tends to reduce the visibility of the structural parts of the drawings as well as make it difficult to see lines (especially hidden lines and

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reference lines). Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Claim Objections***

12. Claims 14-16, 31-32, and 37-40 are objected to under 37 CFR 1.75(c) as being in improper form because a **multiple dependent claim should refer to other claims in the alternative only and cannot depend from any other multiple dependent claim**. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

13. Claims 1-40 are objected to because of the following informalities: Each of the claims should begin with an article (A or The) such as "A hinge" for claim 1 and "The hinge" for all of the dependent claims. Appropriate correction is required.

14. The claims are objected to because they include reference characters which are not enclosed within parentheses.

Claim 36 is objected to. Reference characters corresponding to elements (panel 2) recited in the detailed description of the drawings and used in conjunction with the recitation of the same element or group of elements in the claims should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims. See MPEP § 608.01(m).

***Claim Rejections - 35 USC § 112***

15. Claims 7, 19 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

16. Claim 7 recites the limitation "said at least one fastening element". There is insufficient antecedent basis for this limitation in the claim when it depends from claim 1. (Note this is a multiple dependent claim and also depends from claim 4, for purposes of examination, it has been taken to mean "a fastening element" when dependent from claim 1 and "said fastening element" when dependent from claim 4.

17. Claim 19 recites the limitation "said spring group". There is insufficient antecedent basis for this limitation in the claim when it depends from claim 1. (Note this is a dependent on a multiple dependent claim which also depends from claim 8, for purposes of examination, it has been taken to mean "a spring group" when dependent from claim 1 and "said spring group" when dependent from claim 8.

**18. Appropriate correction is required to ensure that these claims are properly dependent and indicate proper antecedent basis.**

19. Claim 24 recites the limitation "said closing cap". There is insufficient antecedent basis for this limitation in the claim. For purposes of examination, this has been taken to mean "a closing cap".

20. Claim 24 is further rejected due to the claim language of "and/or". This language is indefinite. For purposes of examination, this has been taken to mean "or". Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

21. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

22. Claims 1-4, 7-13, 24-25 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by CH 364711 herein referred to as '711.

23. For Claim 1, '711 discloses a hinge assembly (Fig. 2) for the articulated connection of a vertically opening panel to a furniture element between a closing position and an opening position in which the panel is at least partially lifted with respect to the hinge assembly and to the furniture element, comprising: a supporting base (18); a lifting lever (17) operatively connected to the panel and hinged to the supporting base about a pivoting axis between said closing and opening positions of the panel; a balancing device (20, 23) acting on the lifting lever to at least partially counterbalance the weight of the panel during rotation of the lever about said pivoting axis; characterized in that in the mounting position of the hinge assembly the pivoting axis of the lifting lever and said balancing device are positioned above an upper surface (top of 4) of the furniture element.

24. For Claim 2, '711 discloses the hinge assembly according to claim 1, wherein said balancing device (20, 23) and said lifting lever (17) are mounted above said supporting base (18).

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25. For Claim 3, '711 discloses the hinge assembly according to claim 1, wherein said lifting lever (17) is operatively connected to the panel by means of at least one fastening element (15 at 3) associated to the lifting lever (17) by means of a connecting arm (15).

26. For Claim 4, '711 discloses the hinge assembly according to claim 3, wherein said at least one fastening element (15 at 3) is constituted by a portion of the connecting arm (15) distal with respect to the lifting lever (17).

27. For Claim 7, '711 discloses the hinge assembly according to claim 1 or 4, wherein said at least one fastening element (15 at 3) is constituted by a substantially plate-shaped element adapted to be laterally associated to the panel at an upper end thereof.

28. For Claim 8, '711 discloses the hinge assembly according to claim 1, wherein the balancing device (20, 23) comprises a spring group (23) adapted to exert a thrusting action on the lifting lever (17) to at least partially counterbalance the weight of the panel during rotation of the lifting lever (17) about said pivoting axis.

29. For Claim 9, '711 discloses the hinge assembly according to claim 8, wherein said spring group (23) comprises at least one spring (23) received in a hollow supporting body (20).

30. For Claim 10, '711 discloses the hinge assembly according to claim 9, wherein said hollow body (20) is hinged to the supporting base (18) at an end of the hollow body (20) distal (right side as viewed in Fig. 2) with respect to the lifting lever (17).



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31. For Claim 11, '711 discloses the hinge assembly according to claim 10, wherein said hollow body (20) is hinged to at least one supporting wall (22) extending laterally to the supporting base (18).

32. For Claim 12, '711 discloses the hinge assembly according to claim 11, wherein said supporting wall (22) integrally extends from the supporting base (18).

33. For Claim 13, '711 discloses the hinge assembly according to claim 1 or 8, wherein said balancing device (20, 23) comprises an adjustment device (19) for adjusting the thrusting force exerted by the balancing device (20, 23) on the lifting lever (17).

34. For Claim 23, '711 discloses the hinge assembly according to claim 9, wherein said spring group (23) comprises at least one pushing element (25) slidably mounted in said hollow supporting body (20) and urged by said at least one spring (23) towards the lifting lever (17).

35. For Claim 24, '711 discloses the hinge assembly according to claim 9 or 23, wherein said spring group (23) comprises at least one spring-guiding stem (19) extending from said pushing element (25).

36. For Claim 25, '711 discloses the hinge assembly according to claim 1, further comprising an angular adjustment device (21) for adjusting the angular position of the direction of thrust exerted by the balancing device (20, 23) on the lifting lever (17) with respect to a dead centre plane passing through a pivoting axis of the balancing device and through the pivoting axis of said lever.

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37. For Claim 36, '711 discloses the hinge assembly according to claim 1, further comprising friction means (at 21 and 25) to adjust the value of the lifting torque exerted by the lifting lever (17) to at least partially counterbalance the weight of the panel.

38. Claims 1, 25-30, and 33-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Turner (US 2,743,476) herein referred to as '476.

39. For Claim 1, '476 discloses a hinge assembly (Fig. 4) capable of the articulated connection of a vertically opening panel to a furniture element between a closing position and an opening position in which the panel is at least partially lifted with respect to the hinge assembly and to the furniture element, comprising: a supporting base (12); a lifting lever (34) operatively connected to the panel and hinged to the supporting base about a pivoting axis (at 43) between said closing and opening positions of the panel; a balancing device (23, 24) acting on the lifting lever to at least partially counterbalance the weight of the panel during rotation of the lever about said pivoting axis; characterized in that in the mounting position of the hinge assembly the pivoting axis of the lifting lever and said balancing device are positioned above an upper surface of the furniture element (as seen in Fig. 6).

40. For Claim 25, '476 discloses the hinge assembly according to claim 1, further comprising an angular adjustment device (41) for adjusting the angular position of the direction of thrust exerted by the balancing device on the lifting lever with respect to a dead centre plane passing through a pivoting axis (at 22) of the balancing device and through the pivoting axis (at 43) of said lever.

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41. For Claim 26, '476 discloses the hinge assembly according to claim 25, wherein said angular adjustment device (41) comprises a supporting body (41) hinged to the supporting base (12) about the pivoting axis (at 43) of the lifting lever and operatively arranged between said lever and the balancing device.

42. For Claim 27, '476 discloses the hinge assembly according to claim 26, wherein the supporting body (41) of the angular adjustment device (41) is angularly displaceable (via 39) with respect to the lifting lever (34).

43. For Claim 28, '476 discloses the hinge assembly according to claim 26 or 27, wherein the angular adjustment device (41) comprises adjustment means (column 3, lines 67-70) for regulating in an adjustable manner the angular position of said supporting body (41) with respect to the lifting lever (34).

44. For Claim 29, '476 discloses the hinge assembly according to claim 26 or 27, further comprising abutment means (33) for limiting the angular displacement of the angular adjustment device (41) with respect to the lifting lever (34).

45. For Claim 30, '476 discloses the hinge assembly according to claim 26, wherein the balancing device (23, 24) acts upon a pin (29) transversely mounted in said angular adjustment device (41).

46. For Claim 33, '476 discloses the hinge assembly according to claim 1 or 25, wherein the direction of thrust exerted by the balancing device forms an angle of from about 0 degrees to about 30 degrees with respect to said dead centre plane (wherein in the closed position, the thrust direction is between about 0 and 30 degrees).

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47. For Claim 34, '476 discloses the hinge assembly according to claim 25, wherein said angular adjustment device (41) is housed in a respective housing space (interior of 12 and 34) defined within the lifting lever (34).

***Claim Rejections - 35 USC § 103***

48. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

49. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

50. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over CH 364711 herein referred to as '711.

51. For Claim 5, '711 discloses the hinge assembly according to claim 3, except wherein the lifting lever is provided with hooking means adapted to cooperate with a portion of the connecting arm proximal to the lever. '711 instead teaches the lifting lever formed integrally with the connecting arm. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to form the integral lifting lever and connecting arm as two separate pieces that are hooked together, since it has

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been held that constructing a formerly integral structure in various elements involves only routine skill in the art. See also MPEP § 2144.04: In re Dulberg, 289 F.2d 522, 523, 129 USPQ 348, 349 (CCPA 1961)

52. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over CH 364711 herein referred to as '711, in view of Kimura et al. (US 4,365,893) herein referred to as '893.

53. For Claims 18 and 19, '711 discloses all the limitations except for the hinge having a housing space in which the balancing device is contained and wherein a spring group is slidably mounted. '893 clearly shows these limitations in Figs. 3-6. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the housing of '893 to the hinge of '711 in order to protect the hinge mechanism from dust and dirt, as well as to prevent fingers from being caught in the balancing device.

### ***Conclusion***

54. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey O'Brien whose telephone number is (571)270-3655. The examiner can normally be reached on Monday through Friday 8:00am-5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on 571-272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Victor Batson/  
Supervisory Patent Examiner, Art Unit 3677

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